

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to Claimant [REDACTED]

in re Accounts of Jozef and Jozefa Strzelczyk

Claim Numbers: 222288/MBC; 222289/MBC

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Jozef Strzelczyk (“Account Owner Jozef Strzelczyk”) and Jozefa Strzelczyk (“Account Owner Jozefa Strzelczyk”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”).¹

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying the Account Owners as his maternal uncle and aunt, Jozef Strzelczyk and Jozefa Strzelczyk, née Gurlich (or Garlich). The Claimant stated that his uncle was born in 1875 or 1876 in Lwow, Poland (now Lviv, Ukraine), and that his aunt was born between 1882 and 1885, also in Lwow. The Claimant further stated that his mother, [REDACTED], née [REDACTED], and his aunt were sisters. According to the Claimant, his uncle and aunt, who were Jewish, lived on Tomaszewskiego Street in Poznan, Poland, until they disappeared in 1939. The Claimant stated that, after the Second World War, his mother searched for his uncle and aunt but was unable to find them, and they presumably perished sometime after 1940.

The Claimant indicated that he was born on 27 January 1933 in Odessa, Ukraine. The Claimant indicated that when he left the Ukraine in 1974, he was not allowed to take documents with him

¹ The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably those of Victims of Nazi Persecution (the “ICEP list”), Jozef Strzelczyk and Jozefa Strzelczyk (the “Account Owners”) are each listed as owning two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts which the Account Owners owned jointly.

and that his family papers remained with his paternal cousin. In response to a request from the CRT, the Claimant submitted his parents' marriage certificate, which is written in Russian and dated 6 January 1932 in Ukraine, the Union of Soviet Socialist Republics, and which indicates that his mother's maiden name was [REDACTED] or [REDACTED].

Information Available in the Bank's Records

The Bank's records consist of an account opening contract, dated 30 April 1931 in Poznan, Poland, and a request to hold mail, dated 21 May 1937. According to these records, the Account Owners were Jozef Strzelczyk and *Frau* (Mrs.) Jozefa Strzelczyk, née Görlich, who resided in Poznan. The Bank's records indicate that the Account Owners held one custody account and one demand deposit account, both under the number 36765. These records include samples of the Account Owners' signatures. The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts.

The auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimant in one proceeding.

Identification of the Account Owners

The Claimant's uncle's and aunt's names and city and country of residence match the published names and city and country of residence of the Account Owners. The CRT notes that the Claimant's parents' marriage certificate indicates that his mother's maiden name is pronounced "[REDACTED]" or "[REDACTED]," whereas Account Owner Jozefa Strzelczyk's maiden name is listed in the Bank's records as "Görlich." However, given that the pronunciations of the names are substantially similar, and that both the spelling of a name and its pronunciation may vary in transliteration from Russian, which is written in the Cyrillic alphabet, to another language, the CRT determines that the Claimant's aunt's maiden name matches the maiden name of Account Owner Jozefa Strzelczyk.

The CRT further notes that the names Jozef Strzelczyk and Jozefa Strzelczyk appear only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Furthermore, the CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they resided in Nazi-occupied Poland before disappearing in 1939, and that they presumably perished sometime after 1940.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's maternal aunt and uncle. These documents include his parents' marriage certificate, indicating that his maternal relatives had the same last name as Account Owner Jozefa Strzelczyk's maiden name. The CRT further notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owners resided in Nazi-occupied Poland; that the Account Owners disappeared after 1939 and presumably perished sometime after 1940; that there is no record of the payment of the Account Owners' accounts to them or to their heirs, nor any record of a date of closure for the accounts; that the Account Owners or their heirs would not have been able to obtain information about the accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his uncle and aunt, and

those relationships justify an award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case the Account Owners jointly owned a demand deposit account and a custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”) and the average value of a custody account was SF 13,000.00. Thus, the 1945 total average value of the accounts at issue is SF 15,140.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claims to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
21 December 2007